

House Bill 610

By: Representatives Smith of the 129th, McCall of the 30th, Channell of the 116th, Rogers of the 26th, Everson of the 106th, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Part 2 of Article 3 of Chapter 6 of Title 32 of the Official Code of Georgia
2 Annotated, relating to outdoor advertising signs on the interstate system, primary highways,
3 and other highways, so as to provide for certain height limitations on such outdoor
4 advertising signs and for certain conditions for lowering of existing signs in excess of such
5 height limitations; to provide for certain changes in the sizes of trees permitted to be trimmed
6 or removed from the viewing zones of such signs and for certain changes to the extent of
7 such viewing zones; to provide that where relocation of a sign is required but conflicts with
8 local zoning or land use ordinances, compensation shall be paid to the owner of such sign by
9 the jurisdiction imposing such ordinances; to provide for matters relative to the foregoing;
10 to repeal conflicting laws; and for other purposes.

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

12 **SECTION 1.**

13 Part 2 of Article 3 of Chapter 6 of Title 32 of the Official Code of Georgia Annotated,
14 relating to outdoor advertising signs on the interstate system, primary highways, and other
15 highways, is amended in Code Section 32-6-75, relating to restrictions on outdoor advertising
16 signs authorized by Code Sections 32-6-72 and 32-6-73, by striking in such Code section the
17 word "or" at the end of paragraph (20) of subsection (a) thereof, by striking the period at the
18 end of paragraph (21) of such subsection and inserting in lieu thereof the symbol and word
19 "; or", and by inserting at the end of such subsection a new paragraph to read as follows:

20 "(22) After July 1, 2007 exceeds 75 feet in height as measured from the top of the sign
21 to the level of the traveled way, but any sign erected after that date shall be granted a
22 permit for trimming or removal of vegetation within the viewing zone thereof pursuant
23 to the provisions of Code Section 32-6-75.3 at the time that a permit for such sign is
24 granted as authorized by Code Section 32-6-74 and Code Section 32-6-79. Provided,
25 however, that signs exceeding such height lawfully in existence on such date may be
26 maintained if otherwise in compliance with the provisions of this part, but the provisions

of Code Section 32-6-75.3 in effect on January 1, 2007 shall apply to such signs unless lowered so as not to exceed such height, in which case the provisions of said Code section as amended from time to time shall apply. The department shall expedite and coordinate the processing of applications for permits under Code Section 32-6-75.3 with the processing of applications for permits under Code Section 32-6-74 and Code Section 32-6-79 such that applications under such latter Code sections shall not be delayed. The General Assembly finds and declares that reducing the height of outdoor advertising signs serves the public purpose and function of roadside beautification and enhancement and confers a substantial benefit upon the state and the public. However, the procuring of rights and interests providing for reduction in the height of such signs imposes a substantial immediate and long-term cost upon the owners of such signs. Accordingly, no sign which exceeds 75 feet in height on July 1, 2007 shall be required to be reduced to or below such height unless the owner and the department enter into an agreement providing for the granting or renewal of a permit for trimming or removal of vegetation within the viewing zone of such sign pursuant to the provisions of Code Section 32-6-75.3. Such agreement shall provide that such permits or renewals shall be issued without the fee provided for by paragraph (1) of subsection (e) of said Code section, as just and adequate compensation to the owner, but all other provisions of Code Section 32-6-75.3 as amended from time to time shall be applicable to such permits and renewals. The procedures and requirements for issuance of such permits established by this paragraph shall be an alternative to the procedures provided for by Code Section 32-6-75.3, and the option to proceed under this paragraph or such Code section shall be at the election of the owner. Reduction in height pursuant to the provisions of this paragraph shall be permitted irrespective of otherwise applicable ordinances or regulations."

SECTION 2.

Said part is further amended in Code Section 32-6-75.3 of the Official Code of Georgia Annotated, relating to trimming or removal of vegetation within viewing zones of outdoor advertising signs on the interstate system, primary highways, and other highways, by striking in their entirety subsection (b), paragraph (1) of subsection (e), and subparagraph (A) of paragraph (2) of subsection (e) of said Code section, and inserting in lieu thereof respectively the following:

"(b)(1) So as to promote these objectives and in accordance with the provisions of this Code section, the commissioner shall provide by a minimum of rule or regulation for the issuance and annual renewal of permits for the trimming and removal of trees and other vegetation on the state rights of way within viewing zones with respect to outdoor

advertising signs legally erected and legally maintained adjacent to said rights of way. Such rules and regulations shall ~~include, without limitation, be substantially limited to~~ standards for survival of vegetation trimmed or planted conforming to American National Standards Institute standards for tree care operations. Such permits whenever issued shall allow or be deemed to allow trimming or removal of vegetation in conformance with this Code section as amended from time to time, except as otherwise provided by this part.

~~(2) So as to ensure that no vegetation maintenance permits are issued for the purpose of creating new outdoor advertising signs, no owner of outdoor advertising signs erected after January 1, 1999, or such owner's agent, will be eligible to make application for vegetation maintenance for a period of five years from the date a new sign is permitted."~~

"(e)(1) The department shall evaluate each application for a permit under this Code section and require as a condition of granting any permit under this Code section that the value of the landscaping to be either provided or paid for by the applicant is not less than the department's appraised value of the benefit to be conferred by the state upon the applicant by allowing the trimming or removing of trees or other vegetation as requested, which shall be ~~the value of the~~ three times the appraised pulpwood or lumber value of all trees or vegetation to be trimmed or removed; provided, however, that a permit may be granted to an otherwise qualified applicant in a case where the value of the landscaping to be either provided or paid for by the applicant is less than the department's appraised value of the trees or other vegetation to be trimmed or removed if, in addition, the applicant pays to the department an amount equal to the amount of the difference between the value of the landscaping to be either provided or paid for by the applicant and the department's appraised value of the trees or other vegetation to be trimmed or removed.

(2)(A)(i) No trees or vegetation shall be trimmed or removed under this Code section other than within a viewing zone.

(ii) No removal of ~~any hardwood tree having a diameter outside bark of more than 8 inches at a height of 6 inches above ground level or~~ any historic or endangered species tree or any tree planted as part of any local, state, or federal government project shall be permitted under this Code section; provided, however, that after July 1, 2007 no local or state project shall plant any tree within a viewing zone, and the department is prohibited from expending state or federal funds to plant any tree within a viewing zone.

(iii) ~~All hardwood trees having a diameter outside bark of 8 inches or less at a height of 6 inches above ground level may be removed from within a viewing zone.~~

(iv) All ~~nonhardwood~~ trees may be removed from within a viewing zone for a combined total of ~~250~~ 500 feet horizontal distance parallel to the right of way in the direction of a face visible from the main traveled way.

~~(v) All nonhardwood trees having a diameter outside bark of less than 12 inches at a height of 6 inches above ground level may be removed from within a viewing zone.~~

~~(vi) Pine trees having a diameter outside bark of 12 inches or more at a height of 6 inches above ground level shall not be removed from a viewing zone in such numbers as to reduce stocking to less than the minimum standard for full stocking for such trees, as determined by the Georgia Forestry Commission, over an area having a combined total of not less than 250 feet horizontal distance parallel to the right of way.~~

~~(vii) The provisions of divisions (iv) and (vi) of this subparagraph notwithstanding, in the case of any outdoor advertising sign erected on or before April 20, 1998, and which is less than 35 feet in height as measured from the top of the sign to the ground directly beneath or to the road level, whichever distance results in the best view or the greatest elevation, or which is subsequently lowered to such a height, the horizontal distance of the area within the viewing zone from which all trees, other than hardwoods having a diameter outside the bark of more than 8 inches at a height of 6 inches above ground level, may be removed shall be increased to 350 feet."~~

SECTION 3.

Said part is further amended by adding after Code Section 32-6-84, relating to interests and losses which may be compensable, a new Code Section 32-6-84.1 to read as follows:

"32-6-84.1.

In the event that construction or maintenance by the department or any agency or instrumentality of the state or a political subdivision thereof requires relocation of a sign subject to the provisions of this article, and such relocation can be accomplished to a site acceptable to the owner of the sign, conforming to the requirements of this part, adjacent to the new right of way, and within 250 feet of the current mile post, but such relocation to such site is inconsistent with the zoning ordinances of a county or municipality within whose jurisdiction such relocation is proposed, such county or municipality shall be responsible for the just and adequate compensation of the owner of the sign, but in no event shall such compensation exceed the compensation required under state or federal law."

SECTION 4.

In the event any section, subsection, sentence, clause, or phrase of this Act shall be declared or adjudged invalid or unconstitutional, such declaration or adjudication shall affect and invalidate the whole of the section in which such matter appears herein, but shall in no manner affect the other sections, subsections, sentences, clauses, or phrases of this Act, which shall remain of full force and effect as if the section, subsection, sentence, clause, or

1 phrase so declared or adjudged invalid or unconstitutional were not originally a part hereof.
2 The General Assembly declares that it would have passed the remaining parts of this Act if
3 it had known that such part or parts hereof would be declared or adjudged invalid or
4 unconstitutional, but would not have passed any section of this Act containing or constituting
5 an invalid or unconstitutional provision.

6 **SECTION 5.**

7 All laws and parts of laws in conflict with this Act are hereby repealed.